

Senate Bill No. 1052

CHAPTER 247

An act to amend Section 66452.5 of the Government Code, relating to subdivisions.

[Approved by Governor September 14, 2006. Filed with
Secretary of State September 14, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1052, Kehoe. Subdivisions: appeals.

The Subdivision Map Act authorizes a subdivider, or any tenant of the property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, to file an appeal from any action with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body. The act also requires that the appeal be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken and requires the appeal board or the legislative body to set the matter for hearing within 30 days after the date of filing the appeal.

The act also applies these provisions to an appeal from the action of the appeal board to the legislative body and to an appeal from any interested person adversely affected by a decision of the advisory agency or the appeal board concerning any decision of the advisory agency or appeal board.

This bill would recast these provisions to provide that the hearing be held within 30 days after the date of a request filed by the subdivider or the appellant and would instead require, for appeals to the legislative body, that if there is no regular meeting of the legislative body within the next 30 days for which specified notice can be given, the appeal may be heard at the next regular meeting for which the specified notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter.

The bill would also restate the requirement that each decision made pursuant to these provisions be supported by specified findings and would also make other conforming changes to these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 66452.5 of the Government Code is amended to read:

66452.5. (a) (1) The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, may appeal from any action of the advisory agency with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body.

(2) The appeal shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 10 days after the action of the advisory agency from which the appeal is being taken.

(3) Upon the filing of an appeal, the appeal board or legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of a request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) (1) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. The appeal shall be filed in writing with the clerk of the legislative body within 10 days after the action of the appeal board from which the appeal is being taken.

(2) After the filing of an appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of the request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal.

(c) (1) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b) of this section. If no further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify or state that approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

(2) If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and any local ordinance, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify or state that approval.

(d) (1) Any interested person adversely affected by a decision of the advisory agency or appeal board may file an appeal with the legislative body concerning any decision of the advisory agency or appeal board. The appeal shall be filed with the clerk of the legislative body within 10 days after the action of the advisory agency or appeal board that is the subject of the appeal. Upon the filing of the appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of a request filed by the subdivider or the appellant. If there is no regular meeting of the legislative body within the next 30 days for which notice can be given pursuant to Section 66451.3, the appeal may be heard at the next regular meeting for which notice can be given, or within 60 days from the date of the receipt of the request, whichever period is shorter. The hearing may be a public hearing for which notice shall be given in the time and manner provided.

(2) Upon conclusion of the hearing, the legislative body shall, within 10 days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. The legislative body may sustain, modify, reject, or overrule any recommendations or rulings of the advisory board or the appeal board and may make any findings that are not inconsistent with the provisions of this chapter or any local ordinance adopted pursuant to this chapter.

(e) Each decision made pursuant to this section shall be supported by findings that are consistent with the provisions of this division and any local ordinance adopted pursuant to this division.

(f) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to the hearing. The notice requirement of this subdivision shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider or from persons appealing or filing an appeal for expenses incurred pursuant to this section.